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EXAMINER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>30 January 2009</u>.

2a) ☒ This action is **FINAL.**   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
   closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-7</u> is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1-7</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All   b)☐ Some * c)☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage
         application from the International Bureau (PCT Rule 17.2(a)).

      * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
   Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1.   This Office Action is responsive to communications filed on January 30, 2009.

Claims 15-17 have been cancelled; thus claims 1-7 remained pending in the case.

Response to Arguments

2.   Applicant's arguments filed January 30, 2009 have been fully considered but they

are not persuasive.

In response to applicant's argument that "the additional overhead of Morse teaches away

from the combination with Ackaouy because of the added overhead of Morse teaches away from

the combination with Ackaouy" (page 5: lines 8-10), a recitation of the intended use of the

claimed invention must result in a structural difference between the claimed invention and the

prior art in order to patentably distinguish the claimed invention from the prior art. If the prior

art structure is capable of performing the intended use, then it meets the claim. In this case,

Morse provides the missing limitation that Ackaouy does not explicitly call for, i.e., identifying

the another server as a function of a table holding content availability and location data of

content held in memory of one or more other servers. Thus, it meets the claim.

Claim Rejections - 35 USC § 103

3.   The text of those sections of Title 35, U.S. Code not included in this action can be

found in a prior Office action.

4.   Claims 1 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Ackaouy et al, hereinafter Ackaouy (US 7,171,469), in view of Morse et al (Morse/US

6,609,004), and further in view of Yamamoto et al (Yamamoto/US 6,467,026).

Regarding clams 1 and 18-23, Ackaouy discloses a server (115) comprising:

a processor (unit comprising 162-169; col. 5: lines 28-39);

a memory (170, 171; col. 5: lines 50-60);

a system area network connection (161; col. 4: lines 17-19 and col. 5: lines 28-29);

a local area network connection (161; col. 4: lines 11-17 and col. 5: lines 28-29);

wherein the processor, memory, system area network connection, and local area network connection are operably interconnected within the server (see Figures 1A-B); and

load unique content into the memory from a storage location (e.g., proxy cache 115 caches active data set 140; col. 4: lines 65-67);

receive requests for content over the local area network (e.g., a client device 105 requests data; col. 4: line 40);

service requests for the content in memory (e.g., if it is a cache hit, the proxy cache 115 will transmit the request data to the requesting client 105; col. 4: lines 43-47);

service requests for content located in a memory of another server by obtaining the content over the system area network connection (e.g., if it is a cache miss, the proxy cache 115 will request the data from a server 110 and then provide the data to the requesting client 105; col. 4: lines 48-50); and

cache content used to service request for content located in the memory of the other server for use in servicing subsequent requests for identical content (e.g., the data from server

110 will be cached as an active dataset 140 in the proxy cache 115 and is available to other

clients 105; col. 4: lines 50-52).

Ackaouy does not explicitly call for identifying the another server as a function of a table

holding content availability and location data of content held in memory of one or more other

servers.

Morse teaches identifying the another server as a function of a table holding content

availability and location data of content held in memory of one or more other servers (Figure 4;

col. 7: lines 43-67).

It would have been obvious to one of ordinary skill in the art at the time the invention

was made to apply Morse's network content management in Ackaouy's system, motivated by the

need to move a large amount of information to a large number of people at a relatively low cost.

However, Ackaouy-Morse does not explicitly call for the content to be located in a

random access memory of another server prime with content.

Yamamoto teaches the content is located in a random access memory primed with

content (content browsed by user can be stored in DVD-RAM disk 37; col. 7: lines 17-22 and

48-55).

It would have been obvious to one of ordinary skill in the art at the time the invention

was made to modify Ackaouy-Morse's system with Yamamoto's cache memory DVD-RAM

disk in order to improve network performance, i.e., reducing load imposed on the network and

shorten the time required to access the network.

Regarding claim 7, Ackaouy-Morse-Yamamoto also discloses the unique content is loaded into memory prior to the server being available to service content requests (e.g., frequently requested data set 140 is cached in proxy server 115; Ackaouy, col. 4: lines 65-67).

5.   Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ackaouy-Morse-Yamamoto, as applied to claim 1 above.

Ackaouy-Morse-Yamamoto does not explicitly call for the software operable on the processor to be a component of an operating system (OS) of the server, but since the main purpose of an OS is to organize and control hardware and software so that the computing devices behaving in a flexible but predictable way, it would have been obvious to one of ordinary skill in the art at the time the invention was made the software can be made to be a part of the OS in order to better monitor and control the computing devices.

Regarding claim 3, though Ackaouy-Morse-Yamamoto does not explicitly call for the software operable on the processor to be a driver; however, as it is well known in the art, a device/software driver is any computer program that allows other programs to interact with a computer hardware device, i.e., a driver is an interface for communicating with the device, or emulates a device. Since drivers are hardware-dependent and operating system specific, it would have been obvious to one of ordinary skill in the art at the time the invention was made the software operable on the processor may be modified to be a driver in order to allow interaction with a particular computer hardware device.

Regarding claim 4, Ackaouy-Morse-Yamamoto does not explicitly call for the software operable on the processor to be a middleware component; however, as it is well known in the art, middleware is software that mediates between an application and a network. It manages the interaction between disparate applications across the computing platforms. Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made the software operable on the processor may be a middleware component in order to mediating between an application and a network.

6.   Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ackaouy-Morse-Yamamoto, as applied to claim 1 above, in view of Yeh et al (Introduction to TCP/IP Offload Engine (TOE), Version 1.0, 10GEA Alliance, April 2002), hereinafter Yeh.

Ackaouy-Morse-Yamamoto does not explicitly call for the system area network a TCP Offload Engine (TOE) Gigabit Ethernet network.

Yeh teaches a 10 Gigabit Ethernet TCP Offload Engine enabled (TOE) network (pages 1-5).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Yeh's TCP/IP offload engine in Ackaouy-Morse-Yamamoto's system in order to improve network performance, i.e., lowering server CPU utilization and increasing the data throughput.

Conclusion

7.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Van Kim T. Nguyen whose telephone number is 571-272-3073. The examiner can normally be reached on 8:00 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571-272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Van Kim T. Nguyen
Examiner
Art Unit 2456

vkn
/Yasin M Barqadle/

Primary Examiner, Art Unit 2456